

**ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 03 June 2014 at 1400 UTC**

Note: The following is the output of transcribing from an audio recording of Privacy and Proxy Services Accreditation Issues PDP WG call on the Tuesday 03 June 2014 at 14:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

The audio is also available at:

<http://audio.icann.org/gnso/gnso-ppsa-20140603en.mp3>

On page:

<http://gnso.icann.org/calendar/#june>

Attendees:

Steve Metalitz - IPC
Kathy Kleiman – NCUC
Justin Macy – BC
James Bladel – RrSG
Laura Jedeed – BC
Sarah Wyld - RrSG
Michele Neylon – RrSG
Chris Pelling – RrSG
David Cake – NCSG
Jennifer Standiford – RrSG
Christian Dawson – ISPCP
Osvaldo Novoa - ISPCP
Don Moody – IPC
Darcy Southwell - RrSG
Graeme Bunton – RrSG
Don Blumenthal – RySG
Luc Seufer – RrSG
Phil Marano – SOI
Todd Williams – IPC
Jim Bikoff – IPC
Frank Michlick – RrSG
Holly Raiche – ALAC
Susan Prosser- RrSG
Kristina Rosette – IPC
Val Sherman – IPC
Todd Williams – IPC
Tim Ruiz – RrSG
David Heasley – IPC
Griffin Barnett – IPC
Tatiana Khramtsova - RrSG

Apologies:

Kiran Malancharuvil – IPC
Paul McGrady – IPC
Tobias Sattler – RrSG
Stephanie Perrin – NCSG
Libby Baney – BC
Brian Winterfeldt - IPC
Joe Catapano - staff

ICANN staff:

Mary Wong
Amy Bivins
Terri Agnew

Coordinator: Good morning, good afternoon and good evening, and welcome to the PPSAI Working Group Call on the 3rd of June, 2014.

On the call today we have Graeme Bunton, Holly Raiche, Osvaldo Novoa, Val Sherman, Steve Metalitz, Sarah Wyld, Laura Jedeed, Michele Neylon, Justin Macy, Darcy Southwell, Don Moody, Chris Pelling, Todd Williams, Frank Michlick, Kathy Kleiman, Don Blumenthal, James Bladel, Susan Prosser, Luc Seufer, Tim Ruiz and Christian Dawson.

We have apologies from Kiran Malancharuvil, Paul McGrady, Tobias Sattler and Joe Catapano. From staff we have Mary Wong, Amy Bivins, and myself, Terri Agnew. Just joining us right now is also Kristina Rosette.

I would also like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much, and back over to you, Don.

Don Moody: Thanks. Having a good time with the jazz discussion in the chat. I hate to switch to business. I'm getting a lot of intermittent audio (unintelligible) just be me. But I'll get started.

First thing, in case people have not seen it, we have been put on the ICANN schedule for 10:00 on Wednesday of these meetings. That's later than we had originally hoped for, and later than we've -- well our formal meeting -- and then our informal one before that.

But they wish to accommodate a conflict with expert working groups, actually. And someone decided rather than them really wanting to come to see us, we might want to go see them. So we were pushed back.

Start thinking, if you would, about how we should approach the role. We'll take that up at a later phone call. And to be honest, it may depend on the progress we make both with our template process.

But also if we decide to revisit -- I've got to stop reading the chat, I'm sorry -- if we do have time to revisit the prior threshold wording that we're still working - at least one person, maybe some others, are still working on offline.

Again, please keep your SOIs up to date. Somebody suggested that I should say that every week, although I'm sure it's been you and me. With that, Michele?

Michele Neylon: Michele, speaking, for the record. Don, apparently - now (Marika) can correct me. But apparently you meant to ask us at the opening of every single meeting if there are any changes to people's conflict of interest statements of interest. (Marika) can probably provide the exact wording on the policy, even though it may drive us all nuts doing it. But I think we're meant to do it every time.

Don Moody: Yes. (Marika)'s not on the call. But, yes, and it wasn't from her. But I got similar wording, although I guess I didn't mention statement of interest. You know, keep it updated. And also you'll note any changes in conflicts. And I guess, according to James here, I won't be alone in my nagging if anybody's on both groups.

At this point, I'd like to just call on Kathy - or not call on Kathy and James. But I think we should discuss the next steps in terms of the transfer issues. Some of them, I think, have some relevance to this whole issue of responsiveness. It's part of the contactability and responsiveness issue in the (D) question.

So we really haven't focused on that, so I'd like to just ask for thoughts in general, if you've had any reaction to the discussion last week; but also how we might adapt it to the immediate question. James?

James Bladel: Hi, Don. Thanks. James speaking, for the record. So just as far as the work and the discussion that Kathy and I had, and our rough outline of findings that we presented last week, I think it tees up a few questions for the group going forward.

First off, I think that there are a couple of items that we can simply - I don't mean to oversimplify them, but we can essentially say that, look, there are some communications that either coming from ICANN, or they're coming from the registrar, that the private proxy service must relay, and then when we develop these relay procedures, that there are some that simply cannot be opted out by the privacy service customer.

That said, I think that we also need to recognize the potential for registrars and third parties to view that, and to call everything -- including marketing and other unsolicited communications -- as somehow critical. And I think we need to make some clear boundaries on what is and what is not considered ICANN critical communication.

So I think that that takes care of quite a bit of what we've addressed, particularly in Item No. 1, with regard to (WDREP) and also the (EERP) notification.

I think that there's going to be more work involved when we talk about transfers, and I think that we're probably going to have to convene a sub-team, not only for folks on this call that are interested, but folks who have, you know, I would say - who are intimately familiar with the weirdness that involves the inter-registrar transfers. And there's several of us here.

There's a lot of overlap of membership with some of those transfer working groups. So folks may want to jump in on that as well.

And then the third one, I think, essentially we've discovered that, you know, as far as we can tell, there really is not a huge concern there as long as the registrar's on the 2013 RAA, that the privacy proxy customer data is being escrowed in an encrypted deposit, and therefore registrar failure does not put those domain names at risk.

So I think, you know, just in general, that's my takeaway from those three. Kathy may - I don't mean to presume to speak for her in all of these situations, but she may have something add, or maybe even some points of disagreement with what I'm saying. But in general, that's, I think, where we landed with some of these. Thank you,

Don Moody: Okay, I appreciate that. Do you see - oh, I'm sorry. Kathy?

Kathy Kleiman: Hi. I just wanted to share I have no disagreement with what James said whatsoever. I appreciate him taking the lead. And the idea here is fairly narrow. We were just trying to close up as much as we could in a narrow way, but we were just a sub-team to kind of outline the issues.

And so what he said about Number 1 and Number 3, we think we can handle easily and probably non-controversially. It's Number 2 - and even Number 2, we think, can be defined very narrowly as a narrow sub-team going out to kind of narrowly address one or two categories of our charter for categories,

so the private to non-private and the private to private transfers of domain names.

And we were thinking, you know, with some concerted work and effort by people who are really expert in it, this, too, is not - it's not a broad mandate. We're not trying to throw anything really open.

We're just trying to kind of plug holes that we were able to spot, that, as a working group, we spotted, and then as a sub-team we defined. So we're hoping this is fairly narrow and focused. Thanks, Don.

Don Moody: I'll just take the floor for a second and then get to Steve, I guess. You know, I see there was both not - was focused and not necessarily not recognition. But I'm just curious what lessons we can take for the, if any, for the specific question that we're looking at now concerning responsiveness. Maybe there aren't, but I wanted - it seems to me to at least be a sub-text of some of the discussion. Steve?

Steve Metalitz: Yes, this is Steve. Thanks again, James and Kathy, for this list, which is very helpful to me. I guess I have two questions. First, in the first group, presumably when we get to relay, we'll be talking about this issue within the working group.

And I suppose the question, which I'm just throwing out there for when we get to this, is whether the working group should decide which are the ICANN critical communications and which aren't; or whether that should be flagged as an implementation issue.

In other words, that there's something like there should be a requirement to relay all ICANN critical communications. Here are some examples. And a full list or full implementation - that's an implementation question. I guess that's my question on the first section here is, do you guys agree with that approach?

And then I have a question about the second section. Should I go on to my second question?

Don Moody: Well, James, is that a response to the first? Or should we just go on about...

James Bladel: Yes, I was just going to offer a potential response to Steve that I think it's completely within - you know, appropriate and within the scope of this work to define the minimum types or categories of communications that would be considered ICANN critical or registrar critical, that would need to be relayed, and then of course allowing for the possibility that service providers may want to expand upon that.

But I think that, you know, it would certainly fit the idea of setting those standardized industry practices for all accredited providers that we would establish some, you know, minimum subsets, and then just build up from there.

Steve Metalitz: Okay, thank you for...

James Bladel: That's just my opinion.

Steve Metalitz: That response. I guess on the second section, are you recommending that we - you know, if these issues need to be addressed in the context of this working group, maybe we should have a sub-team that will work in more detail on - especially the things on the right-hand side, B and D, and then report back. Is that what you guys are recommending? Or have I misread that?

You said the working group/sub-team should consider scenarios. And I think this is definitely - if we do take this on, it's a sub-team job, because I think most of us on the working group don't have enough expertise to contribute anything here. But was that the recommendation that you guys were making?

That we establish a sub-team and ask it to look in more detail at these issues?

James Bladel: This is James again for a response. I think that we were saying if the working group as a whole wants to pursue this as part of its work, then we are, yes, recommending that a separate sub-team -- that comprises some folks who have some experience and expertise with the IRTP policy -- peel off from this group and tackle this and then report back.

I think that, you know, it's still an open question whether the working group as a whole wants to take this on. You know, I think that there was some talk previously about taking this over to the IRTPD working group.

And just note that I'm the chair of that working group, and we are very nearing the end of our final report. So I don't know that even, you know, contextually or even from a timing perspective that the IRTP working group can take this issue on. And I think it's more appropriately done here if we want to go down this path.

Kathy Kleiman: And if I might add - this is Kathy. Steve, in light of the interest and the concern that a number of - that we seem to have both across the non-commercial and commercial, among people coming in from non-commercial and commercial sides - remember, Paul McGrady was concerned and others that there was this disclosure happening in the transfer that many of us, as registrants, didn't know about.

That again, kind of plugging the hole -- the small sub-team working on a focused issue -- might be a good idea. And I'm definitely in favor of recommending it. But that wasn't the purpose of the sub-team. James and I were trying to define it.

But I would like to recommend that it be an area we work on, just so that if it can potentially be plugged, people aren't surprised by what happens,

registrants aren't surprised; that they have as much information as possible and as much kind of informed consent, so that if it is possible to do a transfer from one registrar to another, from one proxy privacy service provider to another, this is probably a really good time to figure that out. Thanks.

Don Moody: James?

James Bladel: Thanks. James speaking. And I just wanted to mention I also agree that this is probably something that we should address. I think that one possibility, one possible market outcome of this entire effort, is that registrars will support accredited privacy services with which they're not affiliated. And that currently is not happening today.

So I think that preparing for that reality, and preparing some kind of guidelines without - you know, as I mentioned to Kathy while we were doing this, I want to be careful that we don't cross the line into developing products as part of a working group.

But I think setting some predictable, uniform standards of how these transfers would occur between privacy proxy services, I think, is a worthwhile effort, so long as we don't dive too deeply into the details.

Don Moody: Steve?

Steve Metalitz: Yes, this is Steve again. Thanks for clarifying that. And could I suggest, if Kathy and James are willing to serve as the nucleus of this sub-group, and if there's - I mean obviously if there's support for doing it amongst the rest of the group, I'm certainly comfortable with giving them the charter to come back with some recommendations, if they could develop any, that should go into the accreditation standards on this, you know, if they can identify those.

And I think that will take a little time on their part, but I'd certainly welcome that if they - just speaking personally, I'd welcome that if they are in a position to take on that job.

Don Moody: The sound of people being volunteered. Let me ask this. And first I've got to apologize here. If you're hearing delays (unintelligible), I'm getting - my audio problems are that it seems like things are delayed coming through to me. So sensors are broken. I get them all, but with a few second gap. So just (unintelligible).

Let me just ask quickly, and then I'll jump over to Tim. You mentioned that (unintelligible). Do you think that we'll be able to pull from it? I mean what's the time frame, for example, given the fact that we won't be getting to these issues for a while? Or should we not wait? Just go ahead and do some kind of sub-team? Let me jump to Tim, and then I'll let James answer.

Tim Ruiz: Okay, good, because I wasn't prepared to answer that question. I actually have a question. This is Tim Ruiz, by the way. Are we talking about just notices in regards to the transfers? Or is this notices in general? Because I think there might be some that, you know, we're going to discuss. Hello? Can you hear me?

Woman: (Unintelligible) now.

Don Moody: You dropped out there.

Woman: You dropped.

Tim Ruiz: Can you hear me now?

Man: Yes.

Kathy Kleiman: Let me give it a shot. This is Kathy, and maybe James can chime in. I think there were certain requirements of notices to the registrant - if I remember correctly, to the registrant of the domain name, regarding renewal.

And there was some ambiguity as to the proxy privacy customer, whether the proxy privacy service provider could reply to that or not reply to it directly, because they're listed as the registrant in the proxy service; or whether - and some concern whether all of those messages might be being passed or being blocked to the customer themselves, who's really the one who should decide whether to renew the domain name or not.

So I think this about kind of making sure that chain of communication on something as critical as a renewal made it all the way down to the proxy privacy customer. That's the type of really high level and important communication that we're talking about. Does that answer your question?

Man: We can't hear you if you're speaking, Tim. Oh, you're typing. We may have lost Don there, too.

Kathy Kleiman: Alas.

Tim Ruiz: This is Tim. If somebody was answering my question or talking, I didn't hear anything.

Man: Well we can hear you now, though, Tim.

Kathy Kleiman: This is Kathy. You didn't hear my response on that?

Tim Ruiz: No.

Kathy Kleiman: Okay, let me just double check my sanity here. Did anyone else hear my response on that?

Man: Yes.

Woman: Yes.

Man: I heard you, Kathy.

Man: Yes.

Kathy Kleiman: Okay, well thanks. Tim, let me try it again. Can you hear me now?

Tim Ruiz: Yes.

Kathy Kleiman: Okay. It was just that at one point there seemed to be an ambiguity in the transfer rules -- and James should correct me if I'm not getting this right -- which is what kind of led - one of the things that led to the sub-team. And the ambiguity was that the registrant - that there appeared to be a rule in the transfer requirement and also in some other types of requirements, the registrant of the domain name had to respond.

And it wasn't clear, in the proxy privacy situation, particularly a proxy situation, whether that communication had to be relayed to the actual customer; and that under certain circumstances it seemed to make sense that it not be the registrant of the domain name, because that was the proxy, but the actual customer that should have the notice and be able to respond.

And so it was about taking those very specific communications and making sure that they were forwarded all the way through to the end customer.

((Crosstalk))

Tim Ruiz: Because in the discussion we had, it sounded like - I was getting confused because in one side, it seemed as if we were just talking about those kinds of transfer notices you just described, or if we were talking about all notices,

ICANN critical notices, that could be much broader than just in regards to transfers. So, thanks.

James Bladel: I don't know if Don is back. This is James. I don't know if I can jump in.

Woman: Go for it, James.

Man: James, (unintelligible). Thank you.

James Bladel: Okay, great. I'm taking over. Yes, Tim, I think that the thing that Kathy and I uncovered is that in transfers, the SOA is a special case in that it is an ICANN critical piece of communication that's defined by consensus policy. But the contact is unknown or could be unknown to the gaining registrar or their privacy service.

And so I think that was something that, you know, we were kind of teeing up for the sub-group is, is there a secure way to exchange or to ensure that those communications are delivered, you know, if the gaining privacy service or gaining registrar is kind of firing blindly with a critical piece of communication.

So I think that's kind of the paradox that we're looking to unravel here. And maybe the result is that there's no secure way to do it, and we just have to go with the status quo, which is that privacy-protected domain names can't be transferred until that service is cancelled. And that may be one possible outcome of this.

So I think what we were trying to put some boundaries around is the idea that if you have something that's critical and you're not sure who to deliver it to, how can you at least get that to a trusted delegate that will be then required to pass that through?

Man: Thanks, James. Tim, did you have a follow-up? Going with no. Holly?

Tim Ruiz: Well I'm, you know, I'm just a little confused. But I'll save it. Thanks.

Holly Raiche: Yes, I have a question and it's maybe of Kathy and James. I'm sort of envisaging every process as almost a two-stage process, and the final stage in communications between the privacy server and the customer then isn't the issue. Passing that information over or back in situations where that particular information still needs to be protected, is that sort of the nub of the problem, it seems to me?

Man: James?

James Bladel: So, Holly, I'm not 100% clear that I understood.

Holly Raiche: Okay. I'm assuming that the registrar would essentially handle all sort of outward communication, and that the only person, the only entity, that's communicating with the, let's call it, beneficial registrant rather than the registrant that is there as the name to be contacted - I'm assuming that last loop, if you will, of communication is what we're talking about.

And the difficulty is handing that last loop, which is the loop that means that somebody is hidden from everybody but the person with whom - or the (unintelligible) they have a special relationship. And that's the difficulty in terms of transfer. How do you transfer that information so that it only goes to the registrar, but the anonymity is protected? Am I understanding that that's the critical issue in the transfer process?

James Bladel: I believe that is correct. You have captured that. I believe that's correct.

Holly Raiche: Thank you.

Kathy Kleiman: Yes, Holly. This is Kathy. Definitely the critical issue in Number 2, but there may be variations of that - that information may not actually have to be

passed. James has some great ideas about hashtags and other types of things.

There may be a way because the registrant -- let's call it the beneficial registrant, the customer, the proxy privacy customer -- is going to have to open an account with the other registrar and with their affiliated or accredited proxy privacy service provider. So they'll be independently providing the information on the receiving side.

So the only question is, is it the actual customer who's authorizing the transfer? And there's actually numerous ways to do that, including different kinds of codes. And it was not a problem for us to solve, but I'm just raising the point that there may be many, many ways to actually verify the identify - without verifying the identity, but verify that the customer's actually approved of the transfer.

Holly Raiche: Thanks. Kathy, it's Holly, and it sounds as if there's going to be some interesting work coming out of the working group. And if you've already started...

Kathy Kleiman: Does that mean you're volunteering?

Holly Raiche: Well with the two of you expert I would say...

Kathy Kleiman: No, no. Come on board and help us.

Holly Raiche: Okay, okay.

Kathy Kleiman: Okay, great thanks.

Woman: It's just a really inconvenient problem and I don't know the technology...

Don Blumenthal: Am I coming through here?

Group: Yes.

Don Blumenthal: Okay, why don't we go through the queue assuming I'm reading James and Steve Metalitz. Let me get - we've got a lot of time to look at these issues I think there will be a lot of work to do even just going back to the transcript and digesting issues.

Why don't we - why I guess (James) dropped out, why don't we finish off with Steve and then let's go over to - let's get over to the template issues. Yes Steve.

Steve Metalitz: This is Steve, just to sum up so we will form this subgroup James and Kathy will be the co-conveners. We will solicit on the list or now in the chat for further members and we will ask them to look at these issues in number two of this paper and report back. I think that's a good outcome, thank you.

Don Blumenthal: And it couldn't have happened if I hadn't been here guiding every step of the conversation. Did - bring up - Mary, if you could bring up D - whichever it was.

Mary Wong: Don, that would be - this is Mary that would be D2 I think and it's on the screen now.

Don Blumenthal: D2 yes that was - right. Could you scroll down to the conclusion?

Woman: I think we can do that on our own screens right.

Mary Wong: Yes we have un-synced the documents everyone can follow.

Don Blumenthal: So that's - well while we're doing that I think we had basically a - about whether a - there should be - what was that? I heard a couple other voices come through there.

I'm sorry (Graham) could you just pick this up I'm getting people talking all over each other who I really don't think are...

(Graham Bunton): Yes that's interesting Don I don't think anyone else is talking at the moment or at least not what I'm hearing. Interesting - so you might want to try dialing back in Don.

Don Blumenthal: Pardon, yes I'm not sure that's going to work but let me try something else here if you could pick it up again.

(Graham Bunton): Sure, so I think we're just seeming to be going through our deliberations. Sorry this is (Graham Bunton) for the record, our deliberations on D2. And it looks like Steve wants to talk so let's go ahead with Steve, thanks.

Steve Metalitz: Okay thank you, yes I think there was general agreement that there should be some dedicated abuse point of contact and one model would be 318 of the RAA 2013 RAA.

There really are two - I would encourage people to look at that there are three paragraphs there. One is maintaining and abuse contact to receive reports of abuse involving registered names and then the registrar has to take reasonable and prompt steps to investigate and responds appropriately. So it's fairly general.

The second paragraph is 24/7 dedicated abuse point of contact, which is basically for use by law enforcement, consumer protection, quasi-governmental or other similar authorities in the jurisdiction in which the registrar is established and there is some limits that well founded reports have to be reviewed within 24 hours.

And then the third point is to publish a description of its procedures for the receipt handling and tracking of abuse reports and documenting that and retaining those reports for a certain period of time.

So that's kind of the model that's in use for registrars it may be a useful model to follow here but I will just make the point that I've made before that if there is a problem involving a proxy registration then the time for contacting the customer or the actual registrant or whatever you want to call that person is inevitably going to be longer than it would be if that was not a proxy registration.

Where then you would have Whois data about the registrant available. So I think we should consider and I'll just, you know, I think we've talked about this in other context but I think because there is that built in delay we should consider having perhaps more specific requirements for responding to abuse contact reports from well-founded abuse contact reports from any source than a peer - more stringent than a peers for example in 318 1.

So and this is the essence of the IPC provisional position that's set out in this document, which is we should look at 318 2 as a model with some time limits for responses, thank you.

(Graham Bunton): Thanks Steve. Kathy did you have a response?

Kathy Kleiman: Thanks (Graham), I'm sorry for the cold back here. I don't think there's any question about the first and third point that Steve was asking about, the point of contact and the publication of procedures.

But this idea of a 24/7 contact was something that the NCSG in its comments said we wanted to ask the registrars and those who operate, accredit those - the group that will become the proxy - the accredited proxy privacy services because is it feasible are we in some way ruling out smaller proxy privacy service providers if we have to go to a 24/7 model.

And let me raise the opposite question from what Steve raised, which is do we need it. In light of the fact that there is now for technical problems on the

net a 24/7 contact at the registrars do we need that type of complete responsiveness in the proxy privacy service arena?

If you can take it down, if you can spin the domain name quickly do you need that immediacy in finding out who is behind it or is that a process that can take a little longer, have a little more due process involved in it?

It's probably there are going to be a lot more inquiries probably coming in for proxy privacy services to the providers because we're looking at content now. There are a lot of people who are going to want to know what's behind the content and that's going to take time to evaluate.

But does it have that same immediacy especially if under the RAA, the 2013 RAA we can take down that domain name much more quickly or suspend it, thanks.

(Graham Bunton): Yes, Kathy those are good questions, (Magaly).

(Magaly Pazello): Yes (Magaly) for the record. Just before I go on to what I was going to say, Kathy's thing about the abuse 24/7 that's only for law enforcement it's not for the general public. So I think she's mixing up a couple of things, which is understandable because it is a bit complicated.

To Steve's point I'm a bit confused I mean I don't understand why does this kind of assumption that privacy proxy is going to be much harder to contact or get than non-privacy proxy.

For the simple reason that even if the - all the data is publicly available in Whois I mean that just means you see the data there's no obligation on a registrant to respond to you I mean absolutely none whatsoever.

And in many respects you're probably more likely to get a response under the 2013 contract from the privacy proxy provider than you would do from a direct registrant.

So I'm just finding the logic behind this argument to be a little bit lacking. I mean I just don't see how it work I mean if you're - if the - if you have a quote on quote emergency then surely wouldn't you be going after the hosting provider in order to get the quote on quote let's just say infringing content taken down?

I mean I think I'm saying something similar to what Kathy is saying but I'm taking it probably from a slightly different angle. I'm just a little bit confused as to why, you know, you know, feel this overwhelming desire and urge to get a contact point when if you can actually get a privacy proxy provider to respond to an abuse complaint that actually solves a lot of your problems, thanks.

(Graham Bunton): Thanks (Magaly), Steve is pointing out in the chat the issue is contact ability not necessarily response if people hadn't seen that.

(Magaly Pazello): But why did you - if that's the case why does it have to be dealt with so quickly that's what I'm confused about?

(Graham Bunton): Let's get Steve to respond and then we'll get to you James, Steve.

Steve Metalitz: Yes thank you, (Magaly) I think you raise a good point and if it were the case that we were to get a faster response or we could be confident of getting a faster response from the proxy service that might be more useful in some cases than having contact information in the clear that might not produce a response.

So but, you know, that's kind of my point because the language on - in paragraph 1 of 318 of the RAA just says reasonable and prompt - reasonable

and prompt steps whereas 318 2 says well we're going to review it within 24 hours and take appropriate action.

So that's a more specific requirement and I'm wondering whether we can use some of that language rather than just say reasonable and prompt in this area. And if there is a - in order to be accredited you have to respond within a certain time period to these abuse reports. I think that's what I'm hoping to get, thanks.

(Graham Bunton): Thanks Steve, James.

Don Blumenthal: Just real quick I'm on land line now although the cord doesn't reach all the way to the computer so this is really ugly.

(Graham Bunton): Welcome back Don we're still mulling around on the D2 and I think James is about to respond to Steve.

Don Blumenthal: Okay.

James Bladel: Well I'm not really - hi this is James speaking I'm not really responding to Steve necessarily but just sort of reacting to some of the statements from (Magaly) and Kathy.

And I think similar but with some key differences. Just in acknowledgement that what (Magaly) is saying I believe to be correct that a - an accredited and professional privacy service is probably going to be a more reliable point of contact than a - just a registrant.

Just because, you know, that is - they'll have procedures and they'll probably have staff, you know, set up to monitor those requirements or those inquiries whereas a, you know, an at large registrant might even, you know, answer that particular inbox once a week or something like that.

I just want to point out however something that is occurring to me is when we look at the second paragraph of the 318 the dedicated context or law enforcement with very specific requirements for response I am going to go ahead and say I don't agree with the idea that that should be included with the privacy proxy service.

And, you know, just because a domain name has a privacy - uses a privacy service does not alleviate or remove the registrars obligation under 3.18.2. So in my opinion, you know, the registrar is still going to be the primary point of contact for law enforcement regardless of whether or not a privacy service is used.

And as a registrar I would be very concerned about having my obligations under (unintelligible) RAA in the hand of an intermediary privacy service that I may or may not be affiliated with and then, you know, basically advocating that responsibility to someone else to respond to law enforcement inquiries. I'd rather not confuse that channel and just essentially keep the law enforcement and the, you know, the strict responsiveness requirements at the registrar level and not duplicate that at the privacy service level.

And then finally just noting that, you know, I would caution against because of some of the problems we're seeing with the abuse provisions in the 2013 RAA what we're noting is that as soon as we establish a contact, you know, contact channel and then we put timeframes around it. It is, you know, - it's filling up very quickly with spurious, you know, and let's just say, you know, garbage type complaints.

Registrars that have communicated back to ICANN that, you know, those inboxes are filling up with, you know, I don't like your TV commercial or I need a job or all kind of other things that people are, you know, the signal to noise ratio in those abuse channels just sky rocket as soon as those go into effect.

So I would strongly caution that we keep the channel modeled after 3.18.1 where we say things like reasonable and commercial, you know, commercially practical response time and leave 3.18.2 at the registrar level not the privacy proxy level, thank you.

(Graham Bunton): Thanks James that's an interesting point and from a - my own sort of perspective. I do think we want to keep that contact at the registrar level and sort of diluting that by having sort of dedicated law enforcement around a number of different privacy services that may be contracting with one registrar presents some problems, (Magaly).

(Magaly Pazello): Yes thanks, I'm just going back again to, you know, some of this stuff around abuse. Now I'm looking at a 1, 2, 6 page - not 8 pages of legal (unintelligible) here from a particular law firm in Dublin who shall remain nameless.

And this is the kind of typical rubbish that lands on my desk on a regular basis and this is the kind of thing where they are claiming that their clients have been defamed that their client has been abused, that the DNS has been used for all sorts of abuse of things when in reality it really hasn't but it's used as scare tactics.

The problem I have is you see when you start talking about abuse and I think the term somebody used was well founded abuse report we need to be really, really careful. I mean what is a well-founded abuse report? I mean is a claim of defamation a well-founded abuse report or defamation on uncertain jurisdictions.

The works in such that if you - if somebody claims that you have defamed it is up to you to prove that you haven't as opposed to other jurisdictions where you have to actually prove that defamation happened.

You know, this is - it's something we have to be very, very careful about I mean ultimately a lot of us are not interested in having our services abused

for criminal activity, illegal activity call it what you may but I'm very, very wary of allowing the usage of terms that are far too broad and can be abused in themselves, thanks.

(Graham Bunton): Thanks (Magaly), I can see you're still typing there do you want to say that instead of write it?

Steve Metalitz: No I was just going to say that well founded reports of legal activity that's language taken from the RAA 318 too so I'm not concocting that language.

(Graham Bunton): Mary, we'll get to you in a sec but Steve if I can put you on the spot what James was saying about that the having that dedicated contact at both the proxy level and the registrar level resonate with you at all?

Steve Metalitz: Yes it does but remember this is going - and it certainly - there are going to be circumstances where it will be unnecessary to deal with a privacy proxy service provider point - abuse point of contact.

But there are going to be situations I mean the model that we're looking at here is that there will be privacy proxy services not affiliated with a registrar that will be registering - making registrations sponsored by that registrar.

So going to the registrar with a problem may not be that productive you may really need to go to the privacy and proxy service to try to resolve the problem that's all I'm saying.

(Graham Bunton): Okay thanks Steve, James we'll get to you in a sec Mary has had her hand up for a bit, Mary.

Mary Wong: That's okay (Graham) I'll get back in line behind James.

(Graham Bunton): Okay thanks, James.

James Bladel: Thanks (Graham) and to Steve's point that's exactly the scenario that I'm concerned about from a registrar perspective is that, you know, if there would be an unaffiliated privacy or proxy service doing something abusive and that I would get a contact from law enforcement that said essentially, you know, I've already raised this issue with the privacy service and since they're not responding I'm bring it to you and by the way you're already outside of your required response window and, you know, and so now you're in breach of section 3.18.2.

And I think that, you know, it really says that if you go to the registrar every domain has a registrar and if you go to the registrar with that report from law enforcement they will take actions with or without the cooperation of the privacy service.

I think the key here is what we want that action to be. If we want to contact that person or find out who that person is then the registrar may not be able to help you in that situation.

But if it's illegal and I think that's what we're talking about for section 3.18.2 if it's illegal then we want it taken down and that I think is where the registrar is in fact a more appropriate - more appropriately positioned to take action against the name.

So I think, you know, and maybe we got to break down the types of, you know, the types of contacts we feel like would be fielded by this channel because some if we're just looking to find out who is behind it that's something a registrar may not be able to provide.

But if we're looking for someone to take action then I think the registrar is more appropriate.

(Graham Bunton): Thanks James, I'm going to let Steve respond again Mary thank you, go ahead Steve.

Steve Metalitz: Yes just briefly that may be the case but sometimes you need both you need it taken down and you need to know who was behind it because otherwise there's a name for what you're describing and it's called whack-a-mole.

It, you know, the same thing pops up again and again and again, it's taken down, it moves to another registrar, another registry the same problem is recurring.

So at some point you may need to know who is behind that. I agree with you that in many cases the registrar will be better able. These two aren't mutually exclusive but I'm - there should be an abuse point of contact that at the service provider level and my view is there should be time limits in there on response, thank you.

(Graham Bunton): Okay, thanks Steve that's some interesting discussion that I don't feel like we've quite wrapped up so maybe we'll see some more of that on the list, Mary.

Mary Wong: Thanks (Graham) and thanks everybody for an interesting discussion. You know, so this is just kind of to remind us of and mostly of where we are but it seems that we're still looking at the two - at the distinction between contactability on the one hand and responsiveness, which obviously follows from contactability.

And it seems to be in listening to this that we don't necessarily have any sense of where the majority of the group may be with regard to even the first of contactability, which is, you know, is there a point of contact is that enough or should there be a dedicated point of contact.

And we've heard some arguments and that shows why dedicated point of contact needs to be less workable. And that may or may not then have an impact on the group sense to the point about responsiveness.

So you could have for example a dedicated point of contact with fixed time limit as we have in 318. You could also have a non-dedicated point of contact, simply a point of contact where the responsiveness required is more or higher than what's in 318.

And 318 is a non-dedicated point of contact, it is the reasonable and prompt standard. So I'm just wondering if members of the group feel that there is any sense as to whether just contactability alone there's a tendency to require a dedicated versus a non-dedicated and to - if that has an impact on the responsiveness question, which obviously we also haven't quite determined. Did I put everyone to sleep with my comment?

(Graham Bunton): It looks like maybe you did.

Man: Bravo.

(Graham Bunton): So maybe that's something we should put to the list and make explicit for everybody as we're thinking about these issue going forward.

Mary Wong: Right and (Graham), Don, Steve I can write some of these up as a series of short questions to send to the list to further discussion on these points.

(Graham Bunton): That would be appreciated thank you Mary. I don't think I'm - I'm not seeing anybody else in the queue although I feel like there's probably still a bit more discussion to have on this D2 but perhaps we can sort of (unintelligible).

Don Blumenthal: (Graham).

(Graham Bunton): Yes.

Don Blumenthal: Hi it's Don I kind of deliberately hung back here because I wasn't quite sure where we were and this hotel phone system is only slightly better than what I was dealing with before.

I just wanted - I think the issue of contacts, responsiveness are kind of interwoven with what we're talking about here. So I, you know, if we do those series of questions that I think I heard Mary mention I only caught part of it do you reckon it would be worthwhile to do kind of a combined list because certainly to me the dedicated points feeds back into just posting content.

And I don't know I'm really not sure because I didn't hear the whole discussion but the extent to which require - the requirements under 3.18 feed back into the issues of just what is responsiveness. This may have been redundant but I'm just making it from little bits I picked up.

(Graham Bunton): Thanks Don, I see us at 10:58 so perhaps it's time to wrap it up rather than trying to squeeze two minutes out of D3. Do we have anything else we need to cover before the end of the call?

Mary Wong: (Graham) this is Mary.

(Graham Bunton): Hi Mary.

Mary Wong: Hi, so I guess we'll post those questions as a follow up to D2 and a reminder also that for anyone who is interested in joining the (STEP) team on the transfer issues we'll probably post a note on that as well.

(Graham Bunton): Both of those would be appreciated. Okay thanks for the really good discussion today everybody I thought that was informative and let's see if we can take a bit of that to the list and maybe clear up any lingering issues on D2 so that we can move onto D3 next week. There we go, thanks everyone for coming.

((Group)) Thanks.

(Graham Bunton): If you can stop the recording now that would be...

Man: Thank you.

Woman: Thank you.

Coordinator: Thank you, (Andrea) if you could please stop the recording. As a reminder that does conclude today's conference call, please disconnect all remaining lines and thank you for joining.

END